

UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY

UNITED STATES OF AMERICA,	:	
	:	Honorable Jose L. Linares
	:	Crim. No. 98-246
v.	:	
JOHN PALADINO	:	ORDER DENYING MOTION
	:	

APPEARANCES:

PAUL J. FISHMAN, UNITED STATES ATTORNEY
By: Leslie Faye Schwartz, Assistant U.S. Attorney
970 Broad Street, Suite 700
Newark, New Jersey 07102

JOHN PALADINO, *pro se*
Mid-State Correctional Facility
P.O. Box 866, Range Road
Wrightstown, New Jersey 08562

LINARES, District Judge:

This matter having come before the Court on John Paladino's *pro se* application for relief pursuant to 18 U.S.C. § 3585(b) and the Court having considered the submissions of both parties, and for good cause shown, this motion must be denied for the following reasons:

(1) First, at this time, the Court lacks jurisdiction to alter the sentence that it imposed on February 15, 2011. *See* 18 U.S.C. § 3582(c); Fed. R. Crim. P. 35.

(2) Second, while 18 U.S.C. § 3585(b) provides that “[a] defendant shall be given credit toward the service of a term of imprisonment for any time he has spent in official detention prior to the date the sentence commences,” § 3585(b), the Bureau of Prisons, not this Court, determines where Paladino will serve his federal sentence, and what credit is to be afforded him.

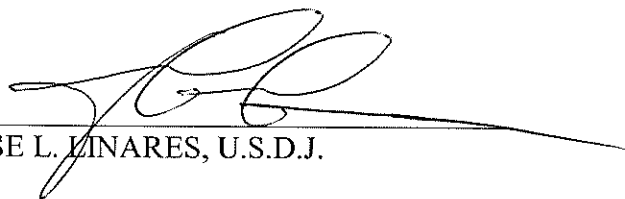
See 18 U.S.C. § 3621 (“[t]he Bureau of Prisons shall designate the place of the prisoner’s confinement.”); *United States v. Whaley*, 148 F.3d 205, 206 (2d Cir. 1998)(“the Attorney General, through the BOP, possesses the sole authority to make credit determinations pursuant to 18 U.S.C. § 3585(b); the district courts do not have authority to order the BOP to either grant or deny credit.”).

(3) Finally, although the Court recognizes that it may under certain circumstances make recommendations to the BOP, it would not make the recommendation in this case that Paladino receive *nunc pro tunc* credit against his federal sentence for time that he spent in state prison on an unrelated offense. As stated at the time of sentencing, given the nature and circumstances of the offense and the history and characteristics of the defendant, a consecutive sentence is warranted.

IT IS on this 16 day of May, 2011,

ORDERED THAT:

Paladino’s Motion for Relief pursuant to 18 U.S.C. § 3585 is hereby **DENIED**.



JOSE L. LINARES, U.S.D.J.